



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
Washington, D.C. 20224

SMALL BUSINESS/SELF-EMPLOYED DIVISION

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MEMORANDUM FOR CHIEF, DISCLOSURE AND GOVERNMENTAL LIAISON &
DISCLOSURE AREA MANAGERS

FROM: Joseph R. Aceto */s/ Joseph R. Aceto*
Director, Governmental Liaison and Disclosure

SUBJECT: Interim Guidance on Procedures for Processing IRC 6103(l)(1)(A)
Requests from Social Security Administration (SSA)

This memorandum serves as interim guidance for Governmental Liaison and Disclosure employees when responding to requests for access to Federal tax information received from the SSA. Please disseminate this memorandum with attachments to your staffs.

Sources of Authority: IRC 6103(l)(1)(A) allows the SSA to request access to specific tax information for use in administering the Social Security Act related to income from self-employment activities. The SSA currently submits ad-hoc requests using SSA Form SSA 7057-U3 which is recognized and responded to as if it were an IRC 6103(c) consent. In order to ensure all information is provided under the correct statute and thus subject to safeguards protection these procedures were drafted and agreed to by responsible individuals at the SSA. The attached procedures reflect that negotiated process and are to be used upon receipt of this memorandum.

Effect on Other Documents: This guidance will be incorporated into IRM 11.3.29, *Disclosure to Federal Agencies for Administration of Nontax Laws*

Contact: If you have any questions, please contact Leonard Smigelski, Senior Tax Law Specialist.

Expiration Date: This guidance will expire on August 20, 2009.

Attachment

cc: www.irs.gov

Attachment

IRS Procedures for Processing Ad Hoc Requests from Social Security Administration Pursuant to IRC 6103(I)(1)(A)

The following procedures will assist Disclosure personnel when processing IRC 6103(I)(1)(A) requests to ensure consistency among all offices. The negotiated procedures given to employees of the Social Security Administration (SSA) are attached. Remember that these procedures only allow disclosure of information covered by IRC 6103(I)(1)(A). Requests for other tax information require consent to disclosure by the taxpayer, using Form 4506 or 4506-T procedures. These latter requests will be worked by the RAIVS unit, not Disclosure.

Effective with receipt of these guidelines, you are to return to SSA any new requests that are not consistent with these procedures or that use Social Security Form 7057-U3 to request information. SSA has agreed to discontinue use of this form for *ad hoc* IRC 6103(I)(1)(A) requests. Procedures for returning these invalid requests are discussed below.

Logging in:

On receipt, date stamp the request and log on E-DIMS using the following codes:

Type 9 – 6103 Other
Agency Code - 075
Sub Agency Code - 001

In the Subject line, enter - IRC 6103(I)(1)(A)

Processing:

Our objective is to provide SSA with the requested information as quickly as possible, considering their need for timely information and our requirement to effectively manage overall inventory.

To be valid, requests must be signed by one of the following SSA officials:

- From the Office Income Security Programs, Office Earnings and Information Exchange:
 - Director
 - Team Leaders
 - Social Insurance Specialist(s) for Self-Employment Income

- From the Office of Central Operations, Office for Management and Operations Support, Center for Program Support:
 - Chief
 - Team Leader
- From SSA Field Offices:
 - District Managers

If the request is not signed by the appropriate delegated official, you are to return the request unfulfilled.

Releasable transcript information should be provided whenever possible. SSA wants to ensure earnings records are accurate with respect to wages and self-employment income, so only relevant portions of tax returns or information return transcripts should be provided.

If the SSA requests a copy of Schedule C, E, F, H or SE from a tax return, provide either a RTVUE or a RTFTP print of only those particular schedules (if those prints are available). THE AUTHORITY IN IRC 6103(l)(1)(A) DOES NOT EXTEND TO PROVIDING COPIES OF COMPLETE TAX RETURNS OR TRANSCRIPTS. Do not give SSA a complete copy of the return or a complete copy of a transcript. However, you can verify that no return containing those schedules was filed, if that is the case.

If SSA asks for Forms 4137 or 8919 that show the total unpaid Social Security and Medicare tax, use CC RTVUE with extender "U1". Note: Form 8919 is new and applies to 2007 and subsequent tax years. Requests from SSA for any year prior to 2007 will require a no record response.

If the requested information is available only on a filed return because a RTVUE or RTFTP print is not available, use CC ESTAB to obtain the return. Research IDRS to determine if a return exists and complete research on any cross-referenced SSN if necessary to determine if a joint return was filed. If the return was electronically filed, obtain the return using accepted procedures.

For earnings information, provide relevant portions of available Information Returns using CC IRPTR. Remember, only those schedules that reflect self-employment earnings, such as Forms 1099 and only certain items on Form W-2, can be provided. For example, you can disclose total wages, SSA wages, and tip income subject to Social Security taxes. You can provide a copy of the IRPTR print for all Forms 1099 information where self-employment income appears (but not 1099-R information) or a copy of the IRTPR print for all Forms W-2 data for the year in question. If you are providing a copy of Form W-2 that was attached to a tax return, include only line items

1, 3, 4, 5, 6, 7 and 8. Redact all other line items on the form, but not identifying information for the taxpayer or the employer in parts a through f, before sending to Social Security.

Do not provide any information regarding passive income such as interest, dividends or similar information contained on IRP documents. Especially, do not provide Title 31 or CTR information.

If SSA needs tax information beyond their IRC 6103(l)(1)(A) authority or beyond what is reflected in the *pro forma* request template, they have been instructed to use Form 4506 or Form 4506-T. **The RAIVS units are to work these requests.** Under **NO** circumstances should Disclosure Offices process IRC 6103(c) requests for tax information from SSA requested using Forms 4506 or 4506-T.

Requesting Forms SS-8

Forms SS-8 may be disclosed under these provisions since they include a determination about the status of the taxpayer as either an employee or contractor.

Contact one of the following IRS locations when requests for Forms SS-8 are received:

Internal Revenue Service SS-8 Determinations PO Box 630 Stop 631 Holtsville, NY 11742-0630	For firms located in Alaska, Arizona, Arkansas, California, Colorado, Hawaii, Idaho, Illinois, Iowa, Kansas, Minnesota, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, Wisconsin, Wyoming, American Samoa, Guam, Puerto Rico, and U.S. Virgin Islands
Internal Revenue Service SS-8 Determinations 40 Lakemont Road Newport, VT 05855-1555	For firms located in Alabama, Connecticut, Delaware, D.C., Florida, Georgia, Indiana, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia and all other locations not listed

Responding to Requests

SSA will provide a signed cover letter and a request template that defines the information needed. Limit your response to only the information requested and the information authorized by IRC 6103(l)(1)(A) to be disclosed.

Because the information provided is subject to penalties for unauthorized access or disclosure, insert the following paragraph into each response letter:

“Penalties for unauthorized access or disclosure of the information being provided are applicable. Personnel having access to this information must be made aware of the penalty provisions of IRC sections 7213, 7213A and 7431, and 18 USC 1905, all pertaining to the unauthorized inspection or disclosure of confidential information.”

Rejecting Requests

On receipt of a request from SSA using Form SSA 7057-U3 or other unacceptable form, prepare a response that includes the following:

“We are returning your Form SSA 7057-U3 used to request information from the Internal Revenue Service (IRS). The IRS and Social Security Administration (SSA) have a negotiated process that is to be used whenever SSA needs information to verify the accuracy of earnings files. We have enclosed an explanation of those procedures. Please resubmit your request using the enclosed template in accordance with the agreed upon process.

If you have any questions, please contact (name of Disclosure caseworker) at: xxx-xxx-xxxx or write to: xxxxxxxx. Please refer to case number xxxxxx.”

You should also reject any request that seeks IRP information that is more than 10 years old or tax returns or tax return information more than 7 years old. Indicate in your response that the information requested has been destroyed in accordance with our records destruction guidelines. Include your name and contact information in the event of any questions.

Even if the possibility exists that an older tax return might be available in an administrative file or elsewhere, IRS and SSA have agreed that disclosure of tax returns or tax return information will be limited to the seven most recent years. SSA has received the procedures below that establish those limits and they may be referenced as needed.

The following information was provided to Social Security Administration for their use in requesting tax information under IRC 6103(l)(1)(A). This should be provided as an attachment to any reject letter as discussed above to provide the requester with a copy of the agreed upon procedures for future requests.

Information Provided to Social Security Administration

When Disclosure Is Permitted

Internal Revenue Code Section 6103(l)(1)(A) provides that the Internal Revenue Service (IRS) may disclose certain tax information to the Social Security Administration (SSA) for SSA's administration of the Social Security Act. On request by SSA, IRS may provide copies of self-employment schedules, unreported tip returns, and other information used to ensure the accuracy of wage, tip and self-employment postings to the earnings records.

The following tax information can be provided:

1. Forms reflecting self-employment income or the computation of self-employment tax filed with Form 1040, U.S. Individual Income Tax Return:

- Schedules C, Profit or Loss from Business;
- Schedules C-EZ Short Form, Profit or Loss from Business;
- Schedules E, Supplemental Income or Loss;
- Schedules F, Profit or Loss from Farming;
- Schedules H, Household Employers and;
- Schedules SE, Self-Employment Tax;
- Form 4137, Social Security and Medicare Tax on Unreported Tip Income;
- Form 8919, Uncollected Social Security and Medicare Tax on Wages

The IRS cannot provide copies of complete returns under these provisions. See the Form 4506 procedures below to secure a copy of an entire tax return.

The above schedules are attachments to Forms 1040. If these schedules indicate that other types of tax returns, such as a partnership return (Form 1065) or employment tax returns, including Forms 94X series returns, have been filed, they can also be requested separately if needed. Form 940, 941 and 942 employment tax returns do not include the names of the individuals earning wages, so they may be of limited value. Partnership income specific to the claimant should be reflected on the Schedule E of Form 1040 and should only be requested if there is a question about the accuracy of the amount claimed.

2. Forms 1099, Miscellaneous Income

3. Federal Insurance Contributions Act (FICA) amounts and taxes withheld reflected on Forms W-2. The IRS will disclose only line items 1, 3, 4, 5, 6, 7 and 8 from the claimant's Forms W-2.

Note: All Forms W-2 are required to be filed directly with the Social Security Administration and your agency should already have this information within your systems. The information extracted from Forms W-2 and used in IRS systems actually originated from the SSA

4. Other Forms/Returns, including:

Forms SS-8 – Determination of Employee Work Status for Purposes of Federal Employment Taxes and Income Tax Withholding. This form is filed by a claimant to ask IRS for an opinion regarding their status as either are a contract employee subject to self-employment tax or an employee subject to wages/withholding. It is only available if filed by the claimant.

Form 4361 – Application for Exemption From Self-Employment Tax for Use by Ministers, Members of Religious Orders and Christian Science Practitioners. Note, the claimant is required to maintain a copy of this form, but it can be obtained from the IRS if needed.

Fact of Filing

On request, the IRS can disclose whether or not a return was filed reflecting self-employment income and/or self-employment taxes paid. Again, IRS records generally include only returns filed within the last 10 years.

Retention and Availability of Information

Tax Return Transcripts reflecting information extracted from Schedules C, Schedules C-EZ, Schedules E, Schedules F, Schedules SE and other schedules where self-employment income or tax is reported on Forms 1040 are available only for the current year and three prior years. The IRS can provide these transcripts quickly.

Requests for tax return schedules such as Schedule C, E or F filed with income tax returns beyond the current and three prior years requires the IRS to obtain a copy of the filed tax return and copy the schedules showing earnings from self-employment. The IRS generally maintains tax returns for only 7 years. Requests asking for tax information from Forms 1040 filed more than 7 years ago will receive a response that no records are available.

The IRS maintains online information reflecting self-employment earnings reported on Forms 1099 and W-2 for five years with an additional five years available offline. The IRS will issue a no records available reply in response to requests for earnings information that is more than 10 years old.

SSA must furnish the Social Security Number (SSN) or Taxpayer Identifying Number (TIN) and name of the claimant using the valid request process described in the next section.

Valid Requests

To be valid, a request from SSA must:

- Be in writing on SSA letterhead,
- Be signed by an official, as follows:
 - From the Office Income Security Programs, Office Earnings and Information Exchange:
 - Director
 - Team Leaders
 - Social Insurance Specialist(s) for Self-Employment Income
 - From the Office of Central Operations, Office for Management and Operations Support, Center for Program Support:
 - Chief
 - Team Leader
 - From SSA Field Offices:
 - District Managers
- Indicate that the information will be used to administer the Social Security Act, and
- List what specific information is needed, using the request template.

After you complete your valid request, send it to the proper location, using the chart on the next page. Please allow at least 30 days for the request to be processed if seeking information that is not available on line.

States Served	Disclosure Office	Fax Number
Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont and Brookhaven Campus	<u>Disclosure Office 1</u> MS 41150 25 New Sudbury St Boston, MA 02203	617-316-2400
Pennsylvania, Delaware, New Jersey, New York	<u>Disclosure Office 2</u> Room 3214 600 Arch St Philadelphia, PA 19106	215-861-1282
Illinois, Indiana, Maryland, Wisconsin, Outside the U.S. (International and U.S. Territories)	<u>Disclosure Office 4</u> MS 7000 CHI, Room 2820 230 S Dearborn St Chicago, IL 60604	312-566-3526
District of Columbia, Kentucky, Michigan, Ohio, West Virginia	<u>Disclosure Office 5</u> Room 7019 550 Main St Cincinnati, OH 45202	513-263-3392
Georgia, Alabama, South Carolina	<u>Disclosure Office 6</u> Room 1905, MS 602-D 401 W Peachtree St Atlanta, GA 30308	404-338-8542
North Carolina, Florida, Virginia	<u>Disclosure Office 7</u> Room 409 320 Federal Place Greensboro, NC 27401	336-378-2252
Tennessee, Arkansas, Louisiana, Mississippi	<u>Disclosure Office 8</u> MDP 44, Room 480 801 Broadway Nashville, TN 37203	615-250-5496
Texas	<u>Disclosure Office 9</u> MS 7000 AUSC 3651 South IH 35 Austin, TX 78741	512-460-4437
Missouri, Kansas, Oklahoma, Iowa	<u>Disclosure Office 10</u> MS 7000 STL 1222 Spruce St St. Louis, MO 63103	314-612-4888
Minnesota, Arizona, Colorado, Montana, Nebraska, New Mexico, North Dakota, South Dakota, Wyoming	<u>Disclosure Office 11</u> MS 7000 STP, Ste 810 30 East 7 th Street St. Paul, MN 55101	651-312-7810
Alaska, Idaho, Oregon, Utah, Washington	<u>Disclosure Office 12</u> MS W625 915 2nd Ave Seattle, WA 98174	801-620-7676
Southern California, Hawaii, Nevada	<u>Disclosure Office 13</u> MS 2201 24000 Avila Rd Laguna Niguel, CA 92677	949-389-5014
Northern and Central California	<u>Disclosure Office 14</u> Ste 840S 1301 Clay St Oakland, CA 94612	510-637-2339

If you require additional information from the IRS that is not shown on the request template, the claimant can obtain other types of tax information such as full copies of tax returns or other transcripts by completing Form 4506 *Request for Copy of Income Tax Return* or Form 4506-T *Request for Transcript of Tax Return* and have the information sent to SSA. Disclosure Offices do not process these requests. Send any such request to the proper address listed on each form.

Forms 4506 or 4506-T can be downloaded from the following web site:

<http://www.irs.gov/formspubs/lists/0,,id=97817,00.html>

SSA Request Letter

Date:

Disclosure Office #

123 Anywhere Street
Anywhere City, State

Dear Sir or Madam:

Under the provisions of Internal Revenue Code 6103(l)(1)(A), I am requesting the federal tax information specified on the enclosed attachment. The information is needed for our administration of the Social Security Act.

Please send this information to the Social Security Administration, address, city, state, zip code.

If you have any questions, please contact me at xxx-xxx-xxxx.

Sincerely,

Name
Title

Attachment

IRC 6103(l)(1)(A) Request Template

Claimant Name and Address:	Social Security Number:
Information Needed: (Please check the item(s) needed) From Form 1040: <input type="checkbox"/> Schedule C, Profit or Loss from Business <input type="checkbox"/> Schedule C-EZ Short Form, Profit or Loss from Business <input type="checkbox"/> Schedule E, Supplemental Income or Loss <input type="checkbox"/> Schedule F, Profit or Loss from Farming <input type="checkbox"/> Schedules H, Household Employers <input type="checkbox"/> Schedule SE, Self-Employment Tax <input type="checkbox"/> Form 4137, Social Security and Medicare Tax on Unreported Tip Income <input type="checkbox"/> Form 8919, Uncollected Social Security and Medicare Tax on Wages	Tax Year(s) (The IRS cannot retrieve actual tax returns beyond the seven most recent tax years):
From Information Returns showing income from wages or self-employment income: <input type="checkbox"/> Forms 1099 <input type="checkbox"/> Form W-2 Wage and Tax Statement	Tax Year(s) (The IRS cannot retrieve information extracted from Forms 1099 or W-2 beyond the ten most recent tax years):
Other Information: <input type="checkbox"/> Form SS-8 <input type="checkbox"/> Form 4361	
Fact of Filing: <input type="checkbox"/> Have returns been filed for the periods listed below showing earnings from self-employment and/or the payment of self-employment taxes? If yes, provide the dates filed Periods requested:	IRS response: <input type="checkbox"/> Yes, the following tax years have returns filed showing self-employment income and/or payment of self-employment taxes: _____ The dates filed are: <input type="checkbox"/> No returns for the following periods have been filed that show self-employment income and/or payment of self-employment tax:- _____ _____